

July 25, 2022

David Kearns, Director
Boise Area Office
Occupational Safety and Health Administration
U.S. Department of Labor

Via email: [REDACTED]; oshaboise@dol.gov

Re: Request to investigate Yellowstone Bear World for apparent violations of the Occupational Safety and Health Act

Dear Director Kearns,

I am writing on behalf of PETA to request that the Occupational Safety and Health Administration (OSHA) investigate Yellowstone Bear World, located at 6010 S. 4300 W., Rexburg, ID, 83440, for apparently violating the Occupational Safety and Health Act (OSH Act), 29 U.S.C. § 654(a)(1), by regularly exposing its employees to the recognized hazard of direct contact with dangerous wild animals.

The OSH Act's general duty clause requires employers to furnish employees with an environment and workplace free from recognized hazards that are likely to cause death or serious physical harm. OSHA has repeatedly recognized that an employer's failure to ensure that employees do not come into direct contact with dangerous wild animals constitutes a violation of the general duty clause.

As detailed in the attached appendix, Yellowstone Bear World regularly allows its employees to engage in direct, physical contact with dangerous wild animals, namely black bears and brown bears. By allowing such contact despite the risk of death or serious physical harm, Yellowstone Bear World has failed to provide its employees with an environment and workplace free from recognized hazards, as required by the OSH Act.

Accordingly, PETA respectfully requests that OSHA investigate Yellowstone Bear World for this apparently ongoing violation and assess all available penalties. Thank you for attention to this important matter.

Very truly yours,



Molly Johnson
Counsel, Captive Animal Law Enforcement
[REDACTED]

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Appendix

I. Legal Background

The OSH Act's general duty clause requires that employers provide their employees with "employment and a place of employment ... free from recognized hazards that are causing or are likely to cause death or serious physical harm to [the] employees."¹ "To constitute a recognized hazard, the dangerous potential of a condition or activity must actually be known either to the particular employer or generally in the industry."² OSHA has repeatedly determined that direct contact with captive wild animals such as bears constitutes a recognized hazard and that an employer's failure to prevent such contact violates the general duty clause. For example:

- November 15, 2016: OSHA issued Bailiwick Animal Park a hazard alert letter recommending corrective actions after the facility exposed its employees to "the hazards of free contact with captive animals such as Syrian Brown and American Black bears."³
- May 19, 2014: OSHA issued Stone Mountain Game Ranch a citation and penalty for a serious violation after "employees were allowed to have direct contact with apex predators . . . includ[ing] black bears."⁴
- December 30, 2013: OSHA issued Cherokee Bear Zoo a citation and penalty for a serious violation after the facility allowed employees "to have direct contact with apex predators such as [b]lack and Syrian [b]rown bears during sanitation, feeding, and mating," exposing the employees "to potential attacks."⁵
- April 29, 2013: OSHA issued Animals of Montana a citation and penalty for a serious violation after an employee was killed while cleaning the enclosure for two grizzly bears.⁶ The employee—a "highly-trained veteran worker" who had been carrying bear spray at the time of the incident—sustained fatal claw and teeth wounds to his major arteries.⁷
- December 17, 2010: OSHA issued Sam Mazzola a hazard alert letter after a caretaker "was permitted to have unprotected or 'free contact' with a 400 lb. [black] bear," resulting in fatal injuries.⁸ Although OSHA was "unable to issue . . . a citation for this fatal event" because it could not "confirm an employee/employer relationship between [the caretaker]

¹ 29 U.S.C. § 654(a)(1).

² *Usery v. Marquette Cement Mfg. Co.*, 568 F2d 902, 910 (2d Cir. 1977).

³ OSHA Hazard Alert Letter to Bailiwick Animal Park (Nov. 9, 2016) (Ex. 1).

⁴ OSHA Citation of Stone Mountain Game Ranch, Inspection No. 953969.015 (May 19, 2014) (Ex. 2).

⁵ OSHA Citation of Cherokee Bear Zoo, Inspection No. 943926.015 (Dec. 30, 2013) (Ex. 3).

⁶ OSHA Citation of Animals of Montana, Inspection No. 724901.015 (Apr. 29, 2013) (Ex. 4); OSHA Inspection Detail, Inspection No. 724901.015, available at https://www.osha.gov/pls/imis/establishment.inspection_detail?id=724901.015.

⁷ Lauren Maschmedt, *Wildlife worker killed by his favorite bear, coworker says*, NBC Montana (Nov. 5, 2012), available at <https://nbcmtana.com/news/local/wildlife-worker-killed-by-his-favorite-bear-coworker-says> (Ex. 5).

⁸ OSHA Hazard Alert Letter to Sam Mazzola (Dec. 17, 2010) (Ex. 6); see OSHA Inspection Detail, Inspection No. 202089330, available at https://www.osha.gov/pls/imis/establishment.inspection_detail?id=313784597.

and [Mazzola's] establishment," it "strongly recommend[ed]" that Mazzola "[s]trictly prohibit free contact with dangerous and exotic animals."

Congress intended the OSH Act "to prevent the first injury which might result from unsafe conditions ..., not just to assess penalties for injuries already suffered."⁹ Thus, to establish a violation of the general duty clause, "[i]t is not necessary to show that an accident occurred; it is enough to show that *had one occurred*, it is likely that death or serious physical harm to an employee would have resulted."¹⁰ OSHA interprets "serious physical harm" to include, among other things, amputations; fractures; cuts, lacerations, or punctures involving significant bleeding or requiring sutures; and illnesses affecting the central nervous system.¹¹

Employers are liable for recognized hazards wherever "feasible means existed to eliminate or materially reduce the hazard."¹² OSHA regularly recommends feasible alternatives to direct contact between employees and dangerous animals such as bears. For example, OSHA has advised employers that a feasible and acceptable means to correct this hazard is to "contain the animals using barriers or other means at one end of the enclosure while the employees are performing the sanitation and feeding activities at the other end of the enclosure."¹³

"Any employer who has received a citation for a serious violation of [the general duty clause] shall be assessed a civil penalty of up to \$7,000 for each such violation."¹⁴ "[A] serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result."¹⁵

II. Yellowstone Bear World exposes its employees to the recognized hazard of direct contact with dangerous wild animals, which is likely to cause serious physical harm or death.

According to footage recently captured by PETA, as well as publicly available information, Yellowstone Bear World appears to allow its employees to engage in dangerous direct contact with both black bears and brown bears on a regular basis.

While working at Yellowstone Bear World between April 11 and July 11, 2022, an eyewitness observed and documented several incidents of employees engaging in close, unprotected contact with adult bears.¹⁶

⁹ *Kent Nowlin Const. Co. v. Occupational Safety and Health Review Com'n*, 593 F.2d 368, 371 (10th Cir. 1979).

¹⁰ *Babcock & Wilcox Co. v. Occupational Safety and Health Review Commission*, 622 F.2d 1160, 1164 (3rd Cir. 1980) (emphasis added).

¹¹ OSHA Instruction: Field Operations Manual (FOM) (Apr. 14, 2020), at 4-9, 4-10, available at https://www.osha.gov/sites/default/files/enforcement/directives/CPL_02-00-164_1.pdf.

¹² *Western World, Inc. v. Secretary of Labor, U.S. Department of Labor*, 604 Fed.Appx. 188, 192 (3rd Cir. 2015); *Sea World of Florida, Inc. v. Perez*, 748 F.3d 1202, 1207 (D.C. Cir. 2014) (citing *Fabi Constr. Co. v. Sec'y of Labor*, 508 F.3d 1077, 1081 (D.C. Cir. 2007)).

¹³ See, e.g., OSHA Citation of Stone Mountain Game Ranch (Ex. 2).

¹⁴ 29 U.S.C. § 666(b).

¹⁵ *Id.* § 666(k); see also *Titanium Metals Corp. of America v. Usery*, 579 F.2d 536, 543 (9th Cir. 1978), noting that "substantial probability that death or serious physical harm could result refers not to the probability that an accident of such nature will occur but only to the probability that, an accident having occurred, death or serious injury could result" (internal quotations marks & citations omitted).

¹⁶ The eyewitness worked for Yellowstone Bear World as an intern from April 11 through June 15, for which she received a monthly stipend, then as an hourly, paid employee from June 16 through July 11. Although OSHA has generally interpreted

- June 25: While repairing an electric fence separating the black bears from the brown bears, multiple employees were exposed to unprotected contact with adult bears. As one employee worked on the fence, two male brown bears approached; to distract the bears from this employee, another employee fully entered the brown bears' enclosure and hand-fed the bears. When the brown bears approached the fence again, this second employee attempted to redirect the bears verbally and with a wooden stick. *See* [Video 1](#) at 0:19-1:38, [Video 2](#) at 0:45-1:35, 2:00-2:20. During this time, the eyewitness remained on the other side of the fence and was approached by several adult black bears, with one bear reaching close enough to touch his snout to the eyewitness. *See* [Video 2](#) at 0:00-0:31, 2:31-3:15; [Video 3](#) at 0:00-0:49, 1:38-2:35, 2:50-3:30, 3:47-4:00, 4:32-5:17, 5:27-10:00 (bear makes contact with the eyewitness at 6:50).
- May 22: An employee exited her vehicle while patrolling the facility and approached a fully grown, male black bear. The employee knelt beside the bear; pet his chest and head; pressed her face against his; and allowed him to lick her arm. When a second adult male black bear approached, the employee proceeded to pet both bears. *See* [Video 4](#) at 0:04-0:11; [Video 5](#) at 0:00-1:10.
- April 28: An employee entered the enclosure containing one male and one female brown bear. In an effort to redirect the bears away from a pile of wood that they had torn down from a fence, the employee alternatively offered the bears food in her hand and threatened them with a wooden stick. *See* [Video 6](#) at 0:13-1:20, 2:55-4:10.

The eyewitness also documented employees discussing their direct contact with adult bears. For example, on May 29, an employee recounted to the eyewitness an incident that had occurred on May 26, when she and another worker had entered the adult black bear enclosure to remove a year-old black bear who had escaped from the separate yearling enclosure. Describing the incident as a “shit show,” the employee explained how she had instructed the other worker to “always have a stick” and “waive that motherfucker and beat anything that comes in [her] way.” *See* [Video 7](#) at 1:12-1:37.

These incidents are consistent with other publicly available evidence that Yellowstone Bear World allows its employees to engage in dangerous direct contact with adult bears. According to an exposé of Yellowstone Bear World published by the *Post Register*, “former Bear World workers said they would go into the facility with the bears, equipped with a can of bear spray and a stick, with no training on how to use either.”¹⁷ In a [video](#) taken by a visitor to Yellowstone Bear World and posted to YouTube, a worker

the OSH Act not to extend to volunteers and unpaid interns, courts consider a number of common law factors via a control-based test to determine whether an employee-employer relationship exists under the OSH Act. *See* *Quinlan v. Secretary, U.S. Dept. of Labor*, 812 F.3d 832, 836 (11th Cir. 2016); *Slingluff v. Occupational Safety & Health Review Com'n*, 425 F.3d 861, 865-868 (10th Cir. 2005). For the purposes of this complaint, it is not necessary to determine whether the eyewitness qualified as an employee during her internship because the June 25 incident to which she was a party, as described herein, occurred during her full-time, paid employment. Moreover, upon information and belief, the other individuals discussed here who were documented by the eyewitness are all employed by Yellowstone Bear World as full-time, paid animal keepers—not interns—and thus undoubtedly qualify as “employees” under the OSH Act.

¹⁷ Johnathan Hogan, *Animal activists put spotlight on Yellowstone Bear World*, Post Register (Oct. 10, 2021), available at https://www.postregister.com/news/local/animal-activists-put-spotlight-on-yellowstone-bear-world/article_403f9120-d4bf-51c0-bac6-7d4431276377.html (last accessed Jul. 12, 2022) (Ex. 7).

can be seen entering the adult black bear enclosure and walking beside two bears while appearing to feed the animals from a bucket she is holding.¹⁸

On a blog called Wandering Reckless, a former employee posted several photos of herself in close contact with black bears, including one photo that shows her standing next to an adult bear who presses his or her snout against her arm.¹⁹ In her blog post, this employee described Yellowstone Bear World as an “open contact park.”

Similarly, another former employee posted a photo to Facebook that shows her petting an adult black bear’s head and holding her face only a few inches away from the bear’s.²⁰ Although this photo depicts the employee and the bear on opposite sides of a short electric fence, consisting of three thin wires approximately waist high, such fencing does not prevent employees from engaging in dangerous, hands-on contact, as depicted. Furthermore, the eyewitness reports that, in her experience, workers would turn off the electric fencing whenever they were working nearby—further negating any potential protection therefrom. *See e.g.* [Video 8](#), wherein worker confirms instruction “to plug back in” the fence for one enclosure “and unplug” another.

In addition to dangerous, unprotected contact with adult bears, the eyewitness reports that employees are regularly bitten by younger bears. Yellowstone Bear World employees have extensive hands-on contact with bear cubs due to the facility’s “bottle-feeding experience,” where customers pay to bottle feed black bear cubs. The facility breeds black bears each year and prematurely removes the cubs from their mothers in March—when the cubs are only weeks old, whereas wild cubs typically stay with their mothers for around two years—in anticipation of exhibiting the cubs for bottle feeding, which runs from Memorial Day weekend, when the cubs are approximately five months old, through the end of the season in mid-October, at which point the cubs are nearly 10 months old.²¹ During bottle feeding, employees regularly enter the bears’ enclosure, where they direct the animals to sit on wooden pallets along the fence line while being fed by customers, who stand on the other side of the fence.

According to a former employee who spoke to the *Post Register*, these animals are “old enough and strong enough to cause serious injury with their teeth or claws.”²² An employee warned the eyewitness about the dangers of working with bear cubs during bottle feeding, explaining: “when it’s time to get [the cubs] off the pallet … don’t use your hands or your arms. Use your legs. ’Cause when they get bigger, they will start to bite you when you want them off, because they don’t wanna do what you say. And then they’re gonna start biting you, and it’s better they bite down here than your face.” *See* [Video 9](#) at 2:40-2:55. An experienced employee further instructed the eyewitness: “if you’re bleeding, just hide it until you can walk

¹⁸ Paranormal Veracity, *Bear World – Our First Trip* (Mar. 29, 2022), at 11:36-11:48, available at <https://www.youtube.com/watch?v=VeEHvLkNWmI> (last accessed Jul. 12, 2022). *See also* Facebook photo (July 17, 2022), depicting an employee standing in an enclosure near seven adult black bears (Ex. 8).

¹⁹ Wandering Reckless, *Ponderings: Bear Days and Keeping Busy* (July 23, 2016), available at <https://wanderingreckless.com/2016/07/23/bear-days/> (last accessed July 11, 2022) (Exs. 9, 10). In the post, the employee indicates that she “accepted a paid position” at Yellowstone Bear World for the summer of 2016 after interning at the facility the prior summer.

²⁰ Facebook page, identifying this individual as an “Animal Keeper” for Yellowstone Bear World (Ex. 11); Facebook photo (Jan. 9, 2019) (Ex. 12).

²¹ Yellowstone Bear World, *Bottle Feeding*, available at <https://yellowstonebearworld.com/experiences/bottle-feeding> (last accessed July 12, 2022) (Ex. 13).

²² *Supra* note 17 (Ex. 7).

out of there,” noting that “they bite your hand—for some reason your hands and your arms bleed like crazy.” *Id.* at 2:56-3:07.

A. The inherent dangers of direct contact with bears

Wildlife veterinarian Dr. Monica Bando, who has over 13 years of clinical and research experience working on captive bear issues (including providing integrated veterinary and behavioral rehabilitation and long-term care to over 170 rescued bears), explains that “bears are predatory species who are capable of taking down large mammals using their long, sharp claws; sheer body strength; speed; long, sharp canine teeth; and powerful jaws.” As such, bears can inflict myriad severe injuries such as “abrasions, puncture wounds from claws and/or teeth, scalping, shaking, crush and compression injuries, and death.” Dr. Bando notes that “bears in captivity—black or brown—no matter how seemingly tame, remain capable of inflicting significant and lethal injuries with great speed and little warning.” Accordingly, bears are particularly dangerous animals to handle without safety barriers.

OSHA has repeatedly recognized this inherent danger by citing and penalizing employers for serious violations of the general duty clause when they allow employees to engage in direct contact with bears. As Jeff Funke, OSHA’s Billings area director at the time of the fatal incident at Animals of Montana, told the media, “[t]hose types of apex predators, it’s common knowledge that they’re dangerous.”²³ Moreover, the Animals of Montana incident and the Sam Mazzola incident evince that both brown bears and black bears are capable of inflicting lethal injuries, and, in both instances, the victims had prior relationships with the bears.

Juvenile bears can also pose significant risks. According to the U.S. Department of Agriculture, which oversees animal exhibitors and enforces the Animal Welfare Act, “dangerous animals” such as bears “become too big, too fast and too strong to be used for public contact” once they reach “[a]pproximately 12 weeks of age.”²⁴ As noted above, Yellowstone Bear World requires its employees to engage in frequent, hands-on contact with bear cubs who are five months of age and older, and the employees often sustain bites from these cubs. Such bites could potentially constitute serious physical harm on their own if severe enough, but the danger is compounded by the fact that bears are a “potentially rabid species,” according to the U.S. Department of Health and Human Services’ Centers for Disease Control.²⁵ Indeed, contact with captive bear cubs has led to at least two incidents of potential rabies exposure,²⁶ and there is no indication that the bears at Yellowstone Bear World have been vaccinated against rabies.

B. Feasible alternatives to direct contact with captive bears

²³ Matthew Brown, *Montana company faces fines in fatal bear mauling* (Apr. 30, 2013), Yahoo News, <https://news.yahoo.com/montana-company-faces-fines-fatal-201336019.html> (last accessed Jul 12, 2022) (Ex. 14).

²⁴ USDA Animal Welfare Inspection Guide (Rev. Nov. 2021), at 3-8, available at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last accessed July 12, 2022).

²⁵ CDC, *Compendium of measures to prevent disease associated with animals in public settings*, 2005: National Association of State Public Health Veterinarians, Inc. (NASPHV). MMWR 2005;54 (No. RR-4), at 3, available at <https://www.cdc.gov/mmwr/PDF/rr/rr5404.pdf> (last accessed July 12, 2022).

²⁶ See CDC, *Public health response to a potentially rabid bear cub—Iowa, 1999*, MMWR 1999;48:971–3, available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm4842a5.htm> (last accessed July 12, 2022) (Ex. 15); Samantha Grossman, *Bear Cub Meant to Relax Students Before Finals Ends Up Biting Them and Sparking a Rabies Scare* (May 5, 2014), Time, available at <https://time.com/87790/bear-bites-washington-university-st-louis-students/> (last accessed July 12, 2022) (Ex. 16).

The hazards associated with direct contact between employees and bears can be readily reduced and even eliminated through protected contact methods consistent with industry standards. The Global Federation of Animal Sanctuaries (GFAS), an accrediting body for animal sanctuaries,²⁷ dictates that “humans do not enter enclosures with bears” and “[d]irect physical interaction is limited to protected forms of contact, by experienced personnel, to minimize the risk of injury.”²⁸ Likewise, animal expert Jay Pratte—who is the President of [Bear Care Group](#), a nonprofit that provides education and training to bear caregivers worldwide—told the *Post Register* that “he always keeps a barrier between himself and the animals he works with, and trains other zoos to do the same.”²⁹ Addressing the handling practices at Yellowstone Bear World, specifically, Pratte stated that “[s]ending in 20-somethings with a stick and a can of bear spray is utterly insane.”³⁰ As Dr. Bando opines, sticks and bear spray are “clearly not enough to protect employees in an enclosure with multiple bears, especially if a bear catches them off guard.”

OSHA has long recognized these industry standards and recommended protected contact as a feasible alternative to dangerous, direct contact. Regarding the employee death at Animals of Montana, OSHA’s Jeff Funke stated that the incident “could have been prevented if the bears had been kept in a separate enclosure while their pen was cleaned.”³¹ Likewise, after Sam Mazzola fatally allowed an animal handler to have “free contact” with a black bear, OSHA “strongly recommend[ed]” that he “[s]trictly prohibit free contact with dangerous and exotic animals” and instead “[p]ractice ‘protected contact’ at all times by using holding areas … when caregivers feed the animals, clean their cages, or perform other animal servicing activities.”³²

Yellowstone Bear World could feasibly implement holding areas and other protected contact techniques to ensure the safety of its employees while they perform necessary animal care and facility maintenance. Instead, Yellowstone Bear World has normalized dangerous direct contact and cultivated a culture of complacency, where employees receive little to no training and are permitted to pet and play with bears despite the inherent danger.

III. Conclusion

Yellowstone Bear World has failed to provide its employees with employment and a place of employment free from recognized hazards, as required under the general duty clause. By regularly permitting employees to engage in unprotected, direct contact with bears, this employer puts its employees at significant risk of serious physical harm and death. Without intervention, this flagrant disregard for employee safety will likely continue, potentially resulting in tragedy at any time. Accordingly, PETA respectfully requests that OSHA investigate Yellowstone Bear World for these apparent violations of the OSH Act, issue appropriate citations, and assess all available civil penalties.

²⁷ *About GFAS*, Global Federation of Animal Sanctuaries, <https://www.sanctuaryfederation.org/> (last visited May 21, 2019).

²⁸ *Standards for Bear Sanctuaries*, Global Federation of Animal Sanctuaries (Dec. 2019), at 21, available at <https://www.sanctuaryfederation.org/wp-content/uploads/2020/02/Bear-Standards-2019.pdf> (last accessed July 21, 2022).

²⁹ *Supra* note 17 (Ex. 7).

³⁰ *Id.*

³¹ *Supra* note 23 (Ex. 14).

³² *Supra* note 8 (Ex. 6).